IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA Plaintiff, v. CITIFINANCIAL CREDIT COMPANY, AS SUCCESSOR IN INTEREST TO CITIFINANCIAL AUTO CORPORATION Defendant.	 CIVIL ACTION NO.

COMPLAINT

Plaintiff, the United States of America, alleges as follows:

INTRODUCTION

1. The United States brings this action under the Servicemembers Civil Relief Act (SCRA), 50 U.S.C. § 3901, *et seq.*, against CitiFinancial Credit Company, as successor in interest to CitiFinancial Auto Corporation, for illegally repossessing at least 164 automobiles from servicemembers during their military service. These repossessions took place between 2007 and 2010, when Defendant completed the sale of its automobile lending and servicing business to Santander Consumer USA, Inc.

2. The purpose of the SCRA is to provide servicemembers with protections against certain transactions that could adversely affect their civil legal rights while they

are in military service. One of those protections is the requirement that a court review and approve a lender's repossession of any motor vehicle owned by a servicemember if the servicemember took out the loan and made a deposit or an installment payment before entering military service. The court may delay the repossession or condition the repossession on the refunding of all or part of the prior installments or deposits made by the servicemember. The court may also appoint an attorney to represent the servicemember, require the lender to post a bond with the court and issue any other orders it deems necessary to preserve the interests of all parties.

3. By failing to obtain court orders before repossessing automobiles owned by protected servicemembers, Defendant denied servicemembers their right to obtain a court's review of whether their repossessions should be delayed or adjusted to account for their military service.

JURISDICTION AND VENUE

4. This Court has jurisdiction over this action under 28 U.S.C. § 1331, 28 U.S.C § 1345, and 50 U.S.C § 4041.

5. Defendant is a Delaware corporation with its headquarters located 6400 Las Colinas Boulevard, Irving, Texas, in the Northern District of Texas.

6. Venue is proper in this judicial district under 28 U.S.C. § 1391(b) because Defendant is headquartered and conducts business in the Northern District of Texas.

DEFENDANT

7. Until 2010, Defendant made automobile loans to consumers through CitiFinancial Auto Corporation. In 2010, CitiFinancial Auto Corporation transferred its automobile loan servicing operation and sold its automobile loan portfolio to Santander Consumer USA, Inc.

DEFENDANT'S UNLAWFUL REPOSSESSION PRACTICES

8. On February 25, 2015, the United States filed a lawsuit, Case Number 3:15-cv-00633-B, against Santander Consumer USA, Inc. in the United States District Court for the Northern District of Texas alleging SCRA violations with respect to over 1,100 motor vehicle repossessions.

9. During the investigation that led up to filing that lawsuit, the United States learned that, for some of those repossessions, CitiFinancial Auto Corporation had arranged for the physical repossession of the automobile and later sold the account to Santander Consumer USA, which attempted to collect fees relating to the unlawful repossession.

10. On February 26, 2015, the United States District Court for the Northern District of Texas entered a consent order obligating Santander Consumer USA to provide relief to borrowers subject to repossessions that violated the SCRA. Santander Consumer USA was obligated to pay $5,000 to each servicemember whose account Santander Consumer USA acquired after CitiFinancial Auto Corporation had arranged for the illegal physical repossession. When Santander Consumer

USA was responsible for arranging for the illegal physical repossession itself, it was required to pay the servicemember $10,000 plus lost equity and interest.

11. The consent order provided that Santander Consumer USA's obligation to pay $5,000 did not release any claims by the United States against Defendant for those repossessions.

12. On March 20, 2015, the United States notified Defendant that it was opening an investigation into its motor vehicle loan servicing policies, practices, and procedures. The United States' investigation included reviewing data on motor vehicle repossessions conducted by defendant between 2007 and 2010.

13. Defendant's loan servicing policies, practices and procedures did not include all the safeguards necessary to promote SCRA compliance.

14. The Department of Defense provides lenders and others seeking to comply with the SCRA an automated database run by the Defense Manpower Data Center ("DMDC database"), to check whether their customers are SCRA-protected servicemembers.

15. While Defendant's policies required agents to check the DMDC database prior to initiating the repossession process, Defendant failed to ensure that these searches were run consistently and in a manner reasonably calculated to promote compliance with the SCRA.

16. For example, Defendant failed to ensure that the DMDC database was checked close to the actual date of repossession. In some cases, a DMDC search was run weeks or even months before the actual repossession date. As a result, Defendant

repossessed the vehicles of covered servicemembers who had entered military service or received early notification orders before the actual date of the repossession.

17. Defendant's policies also stated that SCRA protections applied only to borrowers who were "currently active duty" or "stationed in a combat zone," ignoring the fact that SCRA protections also applied to those members of a reserve component who had been ordered to report for military service.

18. Defendant conducted repossessions even when it had evidence in its own records suggesting that a borrower could be an SCRA-protected servicemember. In several cases, loan servicing notes indicate that defendant was informed that the borrower was in military service or had received orders to report for military service. Defendant nevertheless continued in its repossession efforts and eventually succeeded in repossessing the vehicles in question.

DEFENDANT'S SERVICEMEMBER CIVIL RELIEF ACT VIOLATIONS

19. The SCRA provides that "[a]fter a servicemember enters military service, a contract by [a] servicemember for . . . the purchase of real or personal property (including a motor vehicle)" and "for which a deposit or installment has been paid by the servicemember before the servicemember enters military service," "may not be rescinded or terminated for a breach of terms of the contract . . . *nor may the property be repossessed* for such breach *without a court order*." 50 U.S.C. § 3952(a) (emphases added).

20. From 2007 through 2010, Defendant initiated and completed at least 164 repossessions, without court orders, of automobiles owned by SCRA-protected servicemembers.

21. At the time of the repossessions, the individuals who owned the repossessed vehicles were servicemembers who were in military service, as defined by 50 U.S.C. § 3911(1) and (2), or were members of a reserve component ordered to report for military service, as defined by 50 U.S.C. § 3917(a).

22. The servicemembers who owned the repossessed vehicles made at least one deposit or installment payment before they entered military service, as defined by 50 U.S.C § 3911(2).

23. Defendant has engaged in a pattern or practice of violating Section 3952(a)(1) of the SCRA by repossessing the motor vehicles of SCRA-protected servicemembers without court orders.

24. Defendant's violations of Section 3952(a)(1) of the SCRA raise an issue of significant public importance.

25. The servicemembers whose motor vehicles were repossessed without court orders in violation of the SCRA are "person[s] aggrieved" pursuant to 50 U.S.C. § 4041(b)(2) and have suffered damages as a result of Defendant's conduct.

26. Defendant's conduct was intentional, willful, and taken in disregard for the rights of servicemembers.

RELIEF REQUESTED

WHEREFORE, the United States requests that the Court enter an ORDER that:

1. Declares that Defendant's conduct violated the SCRA;

2. Enjoins Defendant, its agents, employees, and successors, and all other persons and entities in active concert or participation with it, with respect to any financial products serviced by them, from:

   a. repossessing the motor vehicles of SCRA-protected servicemembers without court orders, in violation of the SCRA, 50 U.S.C. § 3952;

   b. failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, each identifiable victim of Defendant's illegal conduct to the position he or she would have been in but for that illegal conduct; and

   c. failing or refusing to take such affirmative steps as may be necessary to prevent the recurrence of any illegal conduct in the future and to eliminate, to the extent practicable, the effects of Defendant's illegal conduct;

3. Awards appropriate monetary damages to each identifiable victim of Defendant's violations of the SCRA, pursuant to 50 U.S.C. § 4041(b)(2).

The United States prays for such additional relief as the interests of justice may require.

Respectfully submitted,

DATED: September 18, 2017

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